

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-570-FDW
(3:10-cr-196-FDW-1)**

CHARLES JENKINS,)
)
)
Petitioner,)
)
)
vs.) **ORDER**
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)
)

THIS MATTER is before the Court on Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Doc. No. 1.) Petitioner seeks relief under Johnson v. United States, 135 S. Ct. 2551 (2015).

On June 22, 2016, Petitioner filed a motion under 28 U.S.C. § 2244 in the Fourth Circuit Court of Appeals seeking authorization to file a § 2255 motion in federal district court. In re: Charles Jenkins, No. 16-9841 (4th Cir.), Doc. No 2. Petitioner has never filed an initial § 2255 motion and, therefore, did not need the appellate court's permission to raise his Johnson claim in the district court. (Doc. No. 2.) Mindful of the statute of limitations for filing a § 2255 motion under Johnson, the Fourth Circuit converted Petitioner's § 2244 action to a motion pursuant to § 2255 and transferred it to this Court. (Doc. No. 2.)

On November 17, 2015, the judges of this Court issued a Standing Order appointing the Federal Defenders of Western North Carolina to represent any defendant who was previously determined to have been entitled to appointment of counsel, or who is now indigent, to determine if that defendant is eligible for relief under Johnson. Standing Order in re: Johnson v. United States, No. 3:13-mc-00196-FDW (W.D.N.C. Nov. 17, 2015). Petitioner was previously

determined to be indigent. Petitioner appears to fall within the purview of this Court's Standing Order, the Court will allow the Federal Defender sixty (60) days to review the Petitioner's case and to file a supplement, if any, to the Petitioner's motion to vacate.

IT IS, THEREFORE, ORDERED that no later than sixty (60) days from entry of this Order, the Federal Defenders of Western North Carolina may file a supplement to Petitioner's motion to vacate.

IT IS FURTHER ORDERED that the Clerk of Court shall provide a copy of this Order to Petitioner and the Federal Defenders of Western North Carolina.

Signed: September 21, 2016



Frank D. Whitney
Chief United States District Judge

